

Remarks

Claims 51-55 stand withdrawn from consideration by the Examiner.

Claims 40-42, and 50 stand rejected by the Examiner under 35 U.S.C. § 103(a) and 35 U.S.C. § 103.

Pending claims on appeal are claims 40-42 and 50.

Claim 54 is amended.

No new matter is introduced.

Appellants are concurrently requesting the cancellation of claims 51-53 and the amendment of claim 54 to reflect the cancellation of those claims. Because the Amendment After Final Office Action merely cancels claims and removes issues from appeal it will be entered. 37 C.F.R. § 1.116(b); M.P.E.P. § 714.13. The Appendix reflects these amendments, and contains the resulting pending claims on appeal.

Claims 54-55 are method claims that multiply depend from product claims 40-42 and 50. Appellants would be entitled to present such claims after an indication of allowability of the product claims from which they depend. M.P.E.P. § 821.04 Rejoinder (“Where the application as originally filed discloses the product and the process for making and/or using the product, and only claims directed to the product are presented for examination, when a product claim is found allowable, applicant may present claims directed to the process of making and/or using the patentable product by way of amendment pursuant to 37 C.F.R. § 1.121.”) As suggested by the MPEP, however, Appellants have already presented these claims rather than present them after an indication of allowability of the product claims. *See id.* (“In view of the rejoinder procedure, and in order to expedite prosecution, Appellants are encouraged to present such process claims, preferably as dependent claims, in the application at an early stage of prosecution. ”).

Summary

Claims 51-55 stand withdrawn from consideration by the Examiner.

Claims 40-42, and 50 stand rejected by the Examiner under 35 U.S.C. § 103(a) and 35 U.S.C. § 103.

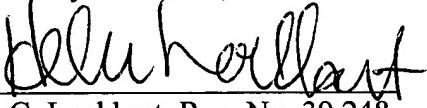
Pending claims on appeal are claims 40-42 and 50.

Claim 54 is amended.

No new matter is introduced.

An early and favorable response is earnestly solicited.

Respectfully submitted,

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